IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE EIGHTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT APPEAL No. 1135 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 29/06/2004 in WP No. 6357 OF 2004 on the file of the High Court.)

Between:

1. M/s Medchal Service Station , rep. by its Managing Partner Sri P.Ramkrishna Reddy, S/o P.Gopal Reddy, aged about 42 years occ: Business R/o Medchal, R.R.Distict
2. M/s Goel Brothers, rep.by its Managing Partner Sri T.C.Goel S/o Late Matadin Goel, Medchal, R.R.District.
3. M/s The Greater Hyderabad Petrol & Diesel Dealer's Association, rep. by its Hony General Secretary, TC.Goel, at 8-1/A, Alkarim Trade Centre Ranigunj, Secunderabad-500 003.

..... APPELLANTS

AND

1. The Government of India , rep.by its Director General (Road Development) & Special Secretary, Transport
Bhavan, 1, Parliament street, New Delhi-100 001.
2. The National Highways Authority of India rep.by its Project Director, at 6-1-132/65, Skandagiri, Near Water Tank, Padmarao Nagar, Secunderabad-500 61.
3. The Bharat Petroleum Corporation Ltd., rep. by its Area Marketing Manager, 45-A, S.D.Road, P.O.Box No.1511 Secunderabad- 500 003.

.....RESPONDENTS

Counsel for the Appellant: Mr.B.VIJAYSEN REDDY

For the Respondent No.1: Smt. A.P. Lakshmi, Additional

Standing Counsel for Central Govt.

For the Respondent No.2: Mr.S.Niranjan Reddy, Advocate.

For the Respondent No.3: Mr.O.Manohar Reddy, Advocate.

The Court made the following :

ORAL JUDGMENT:

(per The Honourable Sri Devinder Gupta, the Chief Justice)

Appellants had filed Writ Petition questioning the action of the second respondent in permitting 3rd respondent to start a retail outlet at the site in question forming part of Survey Nos. 863 and 864 in Medchal village between the outlets of appellants 1 and 2 as illegal, arbitrary and violative of norms/guidelines issued by the Government of India, Ministry of Road Transport and Highways. Writ Petition was contested by the respondents and there is no dispute that during the pendency of the writ petition outlet was commissioned by the third respondent. However, learned counsel for the second respondent produced a copy of the letter dated: 10.4.2004 to the effect that the proposals of the third respondent were not as per the norms stipulated by the Ministry's Circulars dated: 25.9.2003 and 17.10.2003. Therefore, the proposals submitted by the third respondent were not acceptable and had been rejected. Learned Single Judge without going into the merits of the Writ Petition held that in view of the rejection of the proposal of the third respondent, Writ Petition had been rendered infructuous. Challenge is to this order passed by the learned Single Judge.

We have heard learned counsel for parties.

It is not disputed before us that the order of rejection of the proposal of the third respondent is under challenge by the third respondent in separate proceedings. The very fact that before learned Single Judge an order was produced rejecting the proposal of the third respondent by the 2nd respondent otherwise also would not have rendered the Writ Petition Infructuous, inasmuch the question raised by the appellants is about the binding nature of the guidelines to which the stand of the 3rd respondent is that the said guidelines are not binding. In any case, it was incumbent

for the learned Single Judge to have enquired as to whether the order of rejection had or had not become final. Since the order of 2nd respondent is under challenge, cause still survives for the appellants, and, therefore, Writ Petition, in our view, must be heard and decided on merits.

Accordingly, we allow the Writ Appeal and set aside the impugned order with direction that Writ Petition will be heard and decided in accordance with law. No costs.

_____

DEVINDER GUPTA, C.J.

18.8.2004.

_____

C.V.RAMULU, J.

VR

To

1. The Director-General (Road Development) and Special Secretary,
The Government of India , Transport
Bhavan, 1, Parliament street, New Delhi-100 001.
2. The Project Director, The National Highways Authority of India at 6-1-132/65,

Skandagiri, Near Water Tank, padmarao Nagar, Secunderabad-500 61.
3. The Area Manager, The Bharat Petroleum Corporation Ltd., 45-A, S.D.Road, P.O.Box No.1511 Secunderabad- 500 003.

4. Two CD copies.